

January 7, 2005

Mr. Jens G. M. Andersen
Fuel Engineering Services
Global Nuclear Fuel - Americas, LLC
P.O. Box 780
Wilmington, NC 28402

SUBJECT: FIRSTENERGY NUCLEAR OPERATING COMPANY - REQUEST FOR
WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR PERRY
NUCLEAR POWER PLANT UNIT 1 (TAC NO. MC2599)

Dear Mr. Andersen:

By letter to the U.S. Nuclear Regulatory Commission (NRC) dated December 6, 2004, FirstEnergy Nuclear Operating Company submitted an affidavit dated October 29, 2004, executed by you requesting that the information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

Response To Request For Additional Information (RAI) Associated With A
License Amendment Request For Revision Of The Minimal Critical Power Ratio
Safety Limit

A nonproprietary copy of this document has been placed in the NRC's Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (1) The material for which exemption from disclosure is here sought is all "confidential commercial information," and some portions also qualify under the narrower definition of "trade secret."

Some examples of categories of information which fit into the definition of proprietary information are:

- a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GNF-A's [Global Nuclear Fuel - Americas] competitors without license from GNF-A constitutes a competitive economic advantage over other companies;
- b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.

- c. Information which reveals cost or price information, production capacities, budget level, or commercial strategies of GNF-A, its customers, or its suppliers;
- d. Information which reveals aspects of past, present, or future GNF-A customer-funded development plans and programs, of potential commercial value to GNF-A;
- e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version(s) of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-3965.

Sincerely,

/RA/

William A. Macon, Project Manager, Section 2
Project Directorate III
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-440

cc: See next page

- c. Information which reveals cost or price information, production capacities, budget level, or commercial strategies of GNF-A, its customers, or its suppliers;
- d. Information which reveals aspects of past, present, or future GNF-A customer-funded development plans and programs, of potential commercial value to GNF-A;
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William A. Macon, Project Manager, Section 2
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Division of Licensing Project Management
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